

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE  
CONFERENCE OF THE NAACP,

and

TAIWAN SCOTT, on behalf of himself and all  
other similarly situated persons,

Plaintiffs,

v.

THOMAS C. ALEXANDER, in his official  
capacity as President of the Senate;  
LUKE A. RANKIN, in his official capacity as  
Chairman of the Senate Judiciary Committee;  
JAMES H. LUCAS, in his official capacity as  
Speaker of the House of Representatives;  
CHRIS MURPHY, in his official capacity as  
Chairman of the House of Representatives  
Judiciary Committee; WALLACE H.  
JORDAN, in his official capacity as Chairman  
of the House of Representatives Elections Law  
Subcommittee; HOWARD KNAPP, in his  
official capacity as interim Executive Director  
of the South Carolina State Election  
Commission; JOHN WELLS, Chair,  
JOANNE DAY, CLIFFORD J. ELDER,  
LINDA MCCALL, and SCOTT MOSELEY,  
in their official capacities as members of the  
South Carolina State Election Commission,

Defendants.

Case No. 3:21-cv-03302-JMC-TJH-RMG

**JOINT STATUS REPORT WITH  
RESPECT TO THE HOUSE  
DEFENDANTS' RULE 45 SUBPOENAS  
TO THE ACLU AND NAACP LDF**

Pursuant to the Order issued on March 8, 2022 (ECF No. 188), which directed the filing of  
a joint status report on March 21, 2022 regarding the issues which remain in dispute regarding the

subpoenas served on the American Civil Liberties Union Foundation (“ACLU”) and the NAACP Legal Defense and Educational Fund, Inc. (“NAACP LDF”), the following parties—The South Carolina State Conference of the NAACP (“SC NAACP”) and Taiwan Scott (collectively, “Plaintiffs”); Thomas C. Alexander and Luke A. Rankin, in their official capacities (“Senate Defendants”); James H. Lucas, Chris Murphy, and Wallace H. Jordan, in their official capacities (“House Defendants”); and Howard Knapp, John Wells, JoAnne Day, Clifford J. Edler, Linda McCall, and Scott Moseley, in their official capacities (the “Election Defendants”)—submit this Joint Status Report.

On February 3, 2022, House Defendants issued subpoenas pursuant to Federal Rule of Civil Procedure 45 to the ACLU and the NAACP LDF, organizations that employ certain counsel to the Plaintiffs. The ACLU and NAACP LDF engaged attorneys from Sowell & DuRant, LLC and WilmerHale LLP to represent them as outside counsel in responding to the subpoenas. Counsel for the House Defendants engaged in a series of cooperative discussions with outside counsel for the ACLU and NAACP LDF, and the House Defendants agreed to multiple extensions of the due date for the production of materials sought by the subpoenas. Counsel for the House Defendants and outside counsel for the ACLU and NAACP LDF have worked cooperatively to narrow the focus of any issues related to the subpoenas that must be resolved by the Court. On March 6, 2022, the ACLU and NAACP LDF provided a written response with objections to subpoena requests on the grounds that the subpoenas seek documents that are not relevant, are protected by the attorney-client privilege and work product doctrine, are protected by the First Amendment associational privilege, and do not meet the heightened standard of relevancy required for discovery from opposing counsel in a litigation. Outside counsel for ACLU and NAACP LDF

have engaged in several productive discussions with counsel for House Defendants. On March 15, 2022, outside counsel provided House Defendants the opportunity to explain why the information sought from these organizations might be relevant to their defenses. Outside counsel for ACLU and NAACP LDF also explained their collection and review process and indicated that they may be able to produce certain relevant, non-privileged documents. Outside counsel indicated their willingness to review what they had collected and to determine what information they would be willing to produce, with a follow-up call scheduled for March 18, 2022.

On March 18, 2022, during the above-referenced call, counsel continued to engage in productive discussions. Outside counsel for the ACLU and NAACP LDF indicated that they learned that a number of meetings of the SC NAACP-led South Carolina Reapportionment Committee (a coalition that was also comprised of ACLU and NAACP LDF members) were video-recorded through the web platform Zoom. Outside counsel indicated that there were over a dozen recordings of these meetings and that they were not asserting any sort of privilege over these recordings.

This was the first time House Defendants were informed of the existence of such recordings. While Plaintiffs have produced minutes of these meetings (and it appears that additional meeting minutes of these and other meetings were produced late in the evening of March 18, 2022), Plaintiffs had not disclosed the existence of any of these recordings in their discovery responses or in the several Meet and Confers discussed in earlier Status Reports (*see, e.g.*, ECF No. 189). These recordings will be produced by the Plaintiffs through party discovery this week.

House Defendants and outside counsel for ACLU and NAACP LDF have not yet been able to reach an agreement on every issue presented by the issuance of these subpoenas. However, they

continue to work cooperatively and, on March 18, 2022, House Defendants agreed to narrow their subpoenas and provide to outside counsel an amended Exhibit A to their subpoenas that attempted to limit any potential privilege issues and clarify the relevancy issues for the ACLU and NAACP LDF. House Defendants remain optimistic that they can work collaboratively with outside counsel to resolve many if not most of the issues that have been discussed, and the House Defendants and outside counsel for the ACLU and NAACP LDF will let the Court know as soon as possible if there are remaining issues that must be addressed by the Court.

*[Signature Pages Follow]*

Dated: March 21, 2022

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Respectfully submitted,

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